IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2309 OF 2006

Vishnu Chandrakant Naik — Petitioner
vs.
Ganesh Seva Mandal & 4 rs. — Respondents

Mr.Mihir Desai for the petitioner.

Dr.Y.A.Kohir for respondents 1 and 2.

Ms.S.M.Dandekar, AGP for respondents 3 to 5.

CORAM : F.I.REBELLO &
ANOOP V. MOHTA,JJ.

DATED : 24th November, 2006

P.C.

Rule. Heard forthwith.

2. The issue before this Court at the instance of the petitioner is that either he has not been paid the correct salary in terms of the pay scales approved for teachers and/or that he has not been paid at all. It is the case of the petitioner that between the period 16.7.2002 to 31.12.2004 he has been paid at the rate of Rs.1400/- per month which is not the salary which is payable to his post. His further submission is that after 1.1.2005 he has not been paid at all.

3. We may point out that initially the services of the petitioner were terminated by order dated 30.4.2002.

Petitioner preferred an appeal in which certain directions were issued, but subsequently the order of termination itself has been withdrawn and consequently it would follow that the petitioner is deemed to have continued in service. On behalf of the management, it is now pointed out that an administrator has been appointed with effect rom 25.10.2005. It is further submitted that considering the order of the Tribunal dated 22.8.2005 the petitioner should be treated as a permanent teacher as his appointment was against a regular post and consequently the Department is bound to release the salary grants in so far as the petitioner is concerned.

4. We have hard parties. The primary duty to pay wages of a teacher is of the management. The respondent-Department only reimburses by way of grants of the salary paid by the management to the teachers. However, for all practical purposes as is now seen, it is on Government releasing the grants that the teachers are paid their salary. Be that as it may, it is not for us to go into the issue as to whether the post to which the petitioner was appointed is approved post and/or the petitioner was temporary appointed and/or is permanent. That issue would be the subject matter for whatever decision the Tribunal has passed. That however does not mean that the petitioner is not entitled to his wages.

5. In the light of that the following order:

(i) Respondents 1 and 2 are directed to release the difference of salary of the petitioner from 16.7.2002 till 31.12.2004 after deducting the sum of Rs.1400/- p.m. which has been admittedly received by the petitioner. This exercise should be completed within eight weeks from today.

(ii) In so far as the wages for the period from 1.12.2005 till 22.9.2005, respondents 1 and 2 to pay to the petitioner the unpaid wages within a period of 12 weeks from today. If according to respondents 1 and 2, they are entitled for reimbursement, it will be open to them to submit the salary bill to respondent no.3. Respondent no.3, if the post is approved, to release the salaries according to law.

(iii) In so far as the wages for the period from 23.9.2005, that will be subject to

the final order or any other order that will be passed by the School Tribunal.

6. Rule made absolute accordingly. No order as to costs.

(F.I. REBELLO, J.)

(ANOOP V. MOHTA,J.)